

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF VENTURA
VENTURA DIVISION**

TENTATIVE RULINGS

EVENT DATE: 09/22/2015
JUDICIAL OFFICER: Kevin DeNoce

EVENT TIME: 08:20:00 AM

DEPT.: 43

CASE NUM: 56-2014-00461060-CU-NP-VTA
CASE TITLE: P.Q.L INC VS REVOLUTION LIGHTING TECHNOLOGIES INC

CASE CATEGORY: Civil - Unlimited

CASE TYPE: Non-PI/PD/WD tort - Other

EVENT TYPE: Motion - Other (CLM) - for an Order Designating Information as Trade Secrets
CAUSAL DOCUMENT/DATE FILED: Motion - Other, 08/25/2015

With respect to the below scheduled tentative ruling, no notice of intent to appear is required. If you wish to submit on the tentative decision, you may submit a telefax to Judge DeNoce's secretary, Hellmi McIntyre at 805-662-6712, stating that you submit on the tentative. Do not call in lieu of sending a telefax, nor should you call to see if your telefax has been received. If you submit on the tentative without appearing and the opposing party appears, the hearing will be conducted in your absence. This case has been assigned to Judge DeNoce for all purposes.

Absent waiver of notice and in the event an order is not signed at the hearing, the prevailing party shall prepare a proposed order and comply with CRC 3.1312 subdivisions (a), (b), (d) and (e). The signed order shall be served on all parties and a proof of service filed with the court. A "notice of ruling" in lieu of this procedure is not authorized.

The court's tentative ruling is as follows:

The Motion is denied, without prejudice, because the appointment of a referee has not been shown to be necessary at this point in time. Plaintiffs have not shown that exceptional circumstances exist in this case, at this point, which would justify the appointment of a discovery referee.

Discussion:

Is a referee "necessary"?

CCP §639(a):

"When the parties do not consent, the court may...of its own motion, appoint a referee... (5) When the court in any pending action determines it is necessary for the court to appoint a referee to hear and determine any and all discovery motions and disputes relevant to discovery in the action and to report findings and make a recommendation thereon."

Taggares v. Superior Court (1998) 62 Cal.App.4th 94, at 104-106, stated:

[T]here is no suggestion the Legislature intended these powers to be used over the parties' objection in routine, pro forma, uncomplicated matters simply for expediency or a distaste for discovery resolution. Indeed, the statute gives the court this discretion when such a reference is *necessary*. (emphasis original)

[...]

Unless both parties have agreed to a reference, the court should not make blanket orders directing *all* discovery motions to a discovery referee except in the unusual case where a majority of factors favoring reference are present. These include: (1) there are multiple issues to be resolved; (2) there are multiple motions to be heard simultaneously; (3) the present motion is only one in a continuum of many; (4) the number of documents to be reviewed (especially in issues based on assertions of privilege) make the inquiry inordinately time-consuming.

In making its decision, the trial courts need consider the statutory scheme is designed only to permit reference over the parties' objections where that procedure is *necessary*, not merely convenient. (§ 639, subd. (e).) Where one or more of the above factors unduly impact the court's time and/or limited resources, the court is clearly within its discretion to make an appropriate reference.

The issues complained of here do not, for the most part, exist yet. While this is clearly a multi-party, multi-cause of action lawsuit, this motion is premature. There are not multiple issues to be resolved (yet). There are not multiple discovery issues pending, or even a single motion to compel (yet).

There are no discovery motions filed or pending. While it is understandable that P is concerned about the potential for discovery issues in the future, that does not justify appointing a referee at this point. The parties face routine discovery matters which should be handled by the parties. There is not sufficient reason to require the parties to pay a referee. A referee would serve no necessary function under the circumstances of this case at this point in time.